

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0802

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. The meeting will take place simultaneously and will be connected by telephone. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact the undersigned.

Monday - June 23, 2008 - 10:00 a.m. to 3:00 p.m. Mountain Time

DEPARTMENT OF ENVIRONMENTAL QUALITY

**Conference Room D
1410 N. Hilton
Boise, Idaho**

**900 N. Skyline, Suite B
Idaho Falls, Idaho**

**2110 Ironwood Parkway
Coeur d'Alene, Idaho**

PRELIMINARY DRAFT RULE: By June 4, 2008, the preliminary draft rule and an issue paper describing the special primacy requirements can be obtained at http://www.deq.idaho.gov/rules/drinking_water/58_0108_0802_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418. The issue paper covers the topics that will be considered during negotiations.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The U.S. Environmental Protection Agency promulgated the Ground Water Rule on November 6, 2006. This is a national primary drinking water regulation. As a state that has primacy for administering the Safe Drinking Water Act, Idaho must adopt this rule within two years of promulgation.

The Ground Water Rule is expected to provide greater protection against microbial pathogens in public water systems that use ground water sources. The rule attempts to target the subset of ground water systems that are at higher risk of fecal contamination by requiring regular sanitary surveys, establishing a flexible program for identifying higher risk systems through existing bacterial monitoring and state determinations, and providing for ground water source monitoring in systems that do not provide demonstrated virus inactivation through disinfection. The rule requires that deficiencies detected during sanitary surveys be corrected on a reasonable schedule. Systems that verify the presence of contamination in a ground water source must remove the source of contamination or provide disinfection treatment.

As a primacy agency, DEQ must adopt state rules that are no less stringent than the federal rule. Under direction from the Idaho Legislature, DEQ must adopt state rules that are no more stringent than the federal rule. To ensure that Idaho's rules will be neither more nor less stringent than the federal rule, DEQ intends to incorporate the federal rule by reference. The federal rule contains certain special primacy requirements that provide limited flexibility to the state. DEQ intends to conduct negotiations that are limited to consideration of how the special primacy requirements should be met. If necessary, this rulemaking may also include any corrections that are typographical and nonsubstantive in nature.

Drinking water system owners and operators, developers, consultants, engineers, cities, counties, industry, drinking water professional organizations, and the public at large may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2008 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2008. If adopted, the pending rule will be reviewed by the 2009 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Tom John at thomas.john@deq.idaho.gov, (208)373-0191.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or e-mail at the address below. Written comments on the preliminary draft rule must be received by June 25, 2008. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 8th day of May, 2008.

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